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TRADE EXPANSION ACT OF 1962

SEPTEMBER 14, 1962.—Ordered to be printed
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Mr. BYRD, from the Committee on Finance, submitted the following

REPORT

together with

INDIVIDUAL VIEWS

[To accompany H.R. 11970]

The Committee on Finance, to whom was referred the bill (H.R. 11970) to promote the general welfare, foreign policy, and security of the United States through international trade agreements and through adjustment assistance to domestic industry, agriculture, and labor, and for other purposes, having considered the same report favorably thereon with amendments and recommend that the bill as amended do pass.

PURPOSES

The general purposes of H.R. 11970 are—

1. To extend the authority of the President to enter into foreign trade agreements for 5 years from July 1, 1962, through June 30, 1967;
2. To authorize the President to proclaim modifications in or the continuance of existing duties or other import restrictions or such additional import restrictions as he determines to be required or appropriate to carry out such trade agreements;
3. To authorize adjustment assistance to industries, firms, and groups of workers who may be seriously injured or threatened with serious injury by increased imports resulting from concessions granted in trade agreements.

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The explicit purposes of the act are, through agreements affording mutual trade benefits, to stimulate the economic growth of the United States and strengthen economic relations with foreign countries through the development of nondiscriminatory trading in the free world.

COMMITTEE AMENDMENTS

The Finance Committee adopted the following amendments to H.R. 11970:

1. The committee agreed to the statement of purposes stipulated in paragraphs (1) to stimulate the economic growth of the United States and maintain and enlarge foreign markets for the products of U.S. agriculture, industry, mining, and commerce, and (2) to strengthen economic relations with foreign countries through the development of open and nondiscriminatory trade in the free world. It was the opinion of the committee that these two statements of purposes were adequate to accomplish the latter two objectives, thereby making it unnecessary to stipulate them in the statement of purposes. There are a number of Federal programs already in operation for the specific purpose of assisting underdeveloped countries and others with the primary objective the prevention of Communist penetration. The use of the import-export program of the United States in conjunction with the trade agreement program will undoubtedly assist in the progress of countries in the earlier stages of economic development and help prevent Communist economic penetration. For these reasons the committee deleted paragraphs 3 and 4 of the statement of purposes in the bill. Such deletion would not, of course, affect such provisions as sections 213 and 231 of the bill.

2. The committee made no change in the provisions of the bill granting the President authority to reduce or eliminate duties. It also left intact the authority to negotiate increases in duties to 50 percent above the rates existing on July 1, 1934. However, the committee adopted an amendment providing that the President may when he finds it in the national interest (*a*) proclaim the increase of any existing duty to such rate as he finds necessary; (*b*) impose a duty on commodities not otherwise subject to duty at such rate as he finds necessary and (*c*) impose such other import restrictions as he finds necessary.

This additional authority granted to the President is, as stated, based on the national interest and is intended to give the President broad powers to meet any trends toward unreasonable foreign restrictions on U.S. exports or exports from third countries which must otherwise find a market in the United States. This provision strengthens the President's hand in any negotiations or representations to foreign governments when any unreasonable restrictions on U.S. trade are being imposed abroad.

3. In conjunction with the preceding amendment the committee added a new subsection (c) to section 252 of the bill which would also enlarge the authority of the President.

Subsections (a) and (b) of section 252 of the bill together authorize action against burdensome foreign import restrictions. They do not, however, authorize action against foreign import restrictions which, though they may be legally justifiable, impose a substantial burden

upon U.S. commerce. The amendment provides that whenever a country which has received benefits under a trade agreement with the United States maintains unreasonable import restrictions which burden U.S. commerce either directly or indirectly, the President may withdraw existing trade agreement benefits or refrain from proclaiming any negotiated trade agreement concessions on such products. Under this subsection the President may act only to the extent consistent with the purposes of the act and in exercising this authority he must take into consideration the international obligations of the United States. Thus, the amendment would not authorize any indiscriminate breach of international obligations of the United States such as our most favored nation treaties with regard to the products of other countries.

It is anticipated that the authority of the new subsection (c) of section 252 will prove useful in direct negotiations with other countries as a means of persuading them to reduce unreasonably high import restrictions prior to the bargaining process or as the means for inducing that country to end its discriminatory treatment of goods from third countries, or to induce a third country benefiting indirectly from U.S. concessions to grant the U.S. concessions in return for such indirect benefits.

4. The committee also adopted an amendment providing that the President may impose duties or other import restrictions on the products of any country or instrumentality establishing or maintaining burdensome restrictions against U.S. agricultural products. He may apply these restrictions to the extent and for such time as he deems such duties or other restrictions are necessary to prevent the establishment or obtain the removal of such foreign import restrictions and to provide access for U.S. agricultural products on an equitable basis.

5. The committee amended the House bill by revising the language of section 221 (b), (c), and (d) to give in more detail the factors to be taken into account by the Tariff Commission in its prenegotiation study of the commodities on the lists submitted by the President for negotiation.

The House-passed bill stated that the Tariff Commission should advise the President—

> with respect to each article of its judgment as to the probable economic effect of modifications of duties or other import restrictions on industries producing like or directly competitive articles.

The bill as amended in the Finance Committee specifies certain criteria that must be considered by the Tariff Commission in its study. In preparing its advice to the President the Tariff Commission shall, to the extent practicable—

> (1) Investigate conditions, causes, and effects relating to competition between the foreign industries producing the articles in question and the domestic industries producing the like or directly competitive articles;
>
> (2) Analyze the production, trade, and consumption of each like or directly competitive article, taking into consideration employment, profit levels, and use of productive facilities with respect to the domestic industries concerned,

and such other economic factors in such industries as it considers relevant, including prices, wages, sales, inventories, patterns of demand, capital investment, obsolescence of equipment, and diversification of production;

(3) Describe the probable nature and extent of any significant change in employment, profit levels, use of productive facilities, and such other conditions as it deems relevant in the domestic industries concerned which it believes such modifications would cause; and

(4) Make special studies, whenever deemed to be warranted, of particular proposed modifications affecting U.S. industry, agriculture, and labor.

6. The committee deleted section 231 of the bill relating to products of Communist countries or areas and reinstated the substance of the language of the present act. Under the language in the present act, the President has granted most-favored-nation treatment to products of Yugoslavia and Poland. The bill as passed by the House would have prevented the extension of most-favored-nation treatment to products of these countries. The amendment, however, would prevent the application of any reduction in rates of duty or the binding of any present rates to imports from the Union of Soviet Socialist Republics, Communist China, and any country or area dominated or controlled by the foreign government or foreign organization controlling the world Communist movement. As in the case of existing law, the amendment would permit most-favored-nation treatment to be granted to products of any country which appears to be achieving a substantial degree of independence from the foreign government or foreign organization controlling the world Communist movement. It is to be noted that Cuba has already been denied most-favored-nation treatment pursuant to section 401(a) of the Tariff Classification Act of 1962.

7. An amendment was approved which substituted in the provisions of the bill relating to the European Economic Community the term "Free European Trading Community." The term "Free European Trading Community" means the European Economic Community and any country designated by the President which is a member of the European Free Trade Association. The effect of this amendment would be to permit the application of section 211 of the bill to the European Economic Community plus any other country or countries belonging to the European Free Trade Association whether or not they were members of the European Economic Community.

Section 211 of the bill provides that the President may exceed the basic authority to reduce duties by 50 percent in the case of categories of commodities with respect to which the United States and the European Economic Community together account for 80 percent or more of the aggregated world export value of all the articles in the category.

The authority of the President under this section would be very limited if the European Economic Community remains as presently constituted. It has been anticipated that the United Kingdom would join the European Economic Community and it is possible that other countries may later join that organization. The amendment assures that the President will have the broad authority originally contemplated whatever the outcome of the current negotiations between the United Kingdom and the Common Market.

8. Sections 241(a) and 242(a) were amended to provide that the Special Representative for Trade Negotiations shall be Chairman of the Inter-Agency Trade Organization. The bill as it passed the House designated a Cabinet officer selected by the President as Chairman. Under the amendment the Special Representative for Trade Negotiations authorized by section 241 of the bill would have direct responsibility for the trade agreements program both in its formative stage and during actual negotiations. It was the purpose of the committee to provide that the interests of agriculture, industry, labor, and American consumers should be adequately represented in the Inter-Agency Trade Organization. The committee felt that the Chairman, if he was chosen from one of the departments, would represent more the views of that department than the overall broader perspective represented by the Special Representative.

9. Section 301 of the bill was amended to clarify and make more specific the application of the escape clause. The language of the bill as passed by the House (sec. 301(b)(1)) provided that the Tariff Commission—

> shall promptly make an investigation to determine whether, as a result of concessions granted under trade agreements, an article is being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to the domestic industry.

The amended language provides that the Tariff Commission investigation shall be made to determine whether "as a result in major part of concessions granted under trade agreements" the article is being imported in such quantities as to cause or threaten serious injury to the domestic industry.

Paragraph (b)(2) provides that "in making its determination under paragraph (1) the Tariff Commission shall take into account all economic factors which it considers relevant including idling of production facilities, inability to operate at a profit and unemployment or underemployment." The phrase "inability to operate at a profit" was broadened to read "inability to operate at a reasonable profit level."

The above changes were incorporated wherever applicable in section 301. The bill as it came to the committee might have made it difficult for industries which felt that they had been injured to prove their case under the escape clause. The language of the bill could have been interpreted to mean that the increased imports as a result of concessions were the sole cause of the injury. While this may not have been the intent of the bill, the amendment makes it clear that the Tariff Commission need find only that the tariff concessions have been the major cause of increased imports and that such imports have been the major cause of the injury.

10. Section 225(b) of the House bill reserved certain articles which have been the subject of escape clause action from being the subject of further tariff cuts in negotiations under the bill for a period of 4 years. The bill was amended to extend this reserve period to 5 years. Sections 351 (c) and (d) are similarly amended to provide that the duration of escape clause actions under existing law and under the new law will be 5 years.

11. A new section 352 was added to the bill giving the President discretionary authority to enter into orderly marketing agreements with foreign countries, limiting the export of certain articles to the United States where such agreements offer an appropriate device to prevent or remedy serious injury to domestic industries found to be injured under the escape clause procedure. The addition of this new section makes it possible for the President to enter into agreements with foreign countries in order to prevent increased imports from injuring domestic industries. Marketing agreements may give domestic manufacturers an opportunity to adjust to changing competitive conditions and may contribute to healthy competition between domestic and foreign manufacturers. This is particularly true when industries concerned have relatively low capital investment, high labor input, and manufacturing techniques which are easily transferred and labor skills which are easily acquired, and in which there is a tendency to overproduction for the world market. In such industries rapid expansion is possible and these industries are frequently characterized by substantial wage differentials as between countries.

International agreements have been made, under section 204 of the Agriculture Act of 1956, as amended, involving certain agricultural commodities and other raw materials. The amendment would broaden this authority, within the context of the trade agreement legislation, to include other products.

12. Three amendments recommended by the Tarriff Commission to improve the operation of the escape clause and other adjustment assistance provisions were adopted by the committee. These amendments would—

(*a*) Eliminate the requirement that the Tariff Commission make an industry investigation under the escape clause procedure where petitions are filed for adjustment assistance to firms or workers. The time-consuming and difficult study on an industry-wide basis can be avoided and the process facilitated considerably to the great advantage of those filing the petition and of the Tariff Commission in limiting the amount of work it must do.

(*b*) Require the Tariff Commission to make its report in escape clause cases within 6 months. The bill as it passed the House would require the Tariff Commission to complete its investigation within 120 days after the date on which the petitition is filed unless the President extends such time for an additional period not to exceed 30 days. The amendment restores the 6-month time limit of existing law.

(*c*) Allow 60 days to elapse after the enactment of the bill before petitions for adjustment assistance under the bill may be filed with the Tariff Commission. The broad changes in present methods of operation will require considerable study. The amendment would allow 60 days for the Tariff Commission to formulate its rules and regulations relating to its functions under the trade adjustment provisions of the act. It was pointed out to the committee that the alternative to this amendment would be for the Tariff Commission to begin operations under its present rules and regulations which are completely inadequate for operation under the Trade Expansion Act of 1962. It is not likely that the provision for this 60-day moratorium will result in any hardships

to American industries, firms, or workers. Escape clause investigations pending before the Commission would not be terminated, but would be continued and completed under the pertinent provisions of the bill.

The committee amended section 323(g) of the bill in order to provide that trade readjustment allowances (TRA), instead of being supplementary to State unemployment insurance, would replace such insurance. The amendment would provide for the payment of TRA for workers entirely out of Federal funds. To the extent that a worker who is entitled to TRA for a week of unemployment is paid State unemployment insurance for the same week, the State agency will be reimbursed the amount of State unemployment insurance it has paid the worker, but not more than the amount of TRA the worker could have received.

A State, having been reimbursed, would be authorized to disregard any payments and the periods of unemployment for which they were made in determining the employer's rate of contribution under the experience rating provisions of the State law, if the State law provides that the worker's rights to unemployment insurance for which reimbursement was made are reinstated to him. The language of the amendment assures that after termination of the period of eligibility for TRA the worker cannot claim, for a period of unemployment within that period of eligibility, State unemployment insurance.

The effect of this amendment is to separate the benefits under the State programs from the trade readjustment allowances under the Federal program. In instances in which the State program has been drawn upon but a worker applying for a Federal benefit is demonstrated to have been eligible for the Federal payment, the State will be reimbursed and the situation returned to that which would have existed had the Federal rather than the State program been drawn upon initially.

PRINCIPAL FEATURES OF THE BILL AS REPORTED

1. AUTHORITY OF THE PRESIDENT TO MAKE NEW AGREEMENTS

The bill would authorize the President to enter into foreign trade agreements for 5 years, from July 1, 1962, to June 30, 1967.

2. PRESIDENTIAL AUTHORITY TO REDUCE, REMOVE, BIND, OR RAISE IMPORT RESTRICTIONS

(*a*) *Basic authority (sec. 201(b))*

The President is authorized to reduce duties by 50 percent of the level existing on July 1, 1962, and to increase duties to 50 percent over the July 1, 1934, level. The President may also impose quotas or other import restrictions.

(*b*) *Authority to exceed the basic authority in certain cases*

The President is authorized to reduce by more than 50 percent or to remove duties on articles within categories when he has determined that the United States and the countries composing the "Free European Trading Community" together account for 80 percent of the free world trade in such categories of articles in a representative period. The "Free European Trading Community" includes the European Economic Community (commonly known as the Common

Market) and any member or members of the European Free Trade Association (EFTA) designated by the President. This would permit the President to apply section 211 of the bill to the Common Market plus any other country, or countries, belonging to the European Free Trade Association whether or not they were considering entrance into the Common Market.

The President is authorized to reduce by more than 50 percent or to remove, duties on agricultural materials and articles referred to in Agricultural Handbook No. 143, U.S. Department of Agriculture, as issued in September 1959, whenever the President determines that such an agreement will tend to assure the maintenance or expansion of U.S. exports of like articles. This reduction below the 50 percent basic authority may be made by the President only in an agreement with the Free European Trading Community.

The President is also authorized to reduce by more than 50 percent or to remove duties on tropical agricultural or forestry commodities whenever he determines that like commodities are not produced in significant quantities in the United States. This authority is also conditioned on a Presidential determination that the EEC and any FETC country have made commitments with respect to its duties or other import restrictions which will tend to assure access for such a tropical agricultural or forestry commodity to its markets comparable to the access which such commodity would have to the U.S. market.

The President would also be authorized to reduce or remove entirely all duties which were 5 percent or less on July 1, 1962. This would include articles which were reduced to 5 percent or less in the 1961–62 negotiations.

(*c*) *Presidential authority to further increase duties*

The committee added a new section to the bill (sec. 353) to authorize the President, when he finds it in the national interest, to proclaim the increase of any existing duty to such rate as he finds necessary, to impose duties on items not otherwise subject to duty and to impose quotas or other such import restrictions as he finds necessary.

Section 252 of the bill was also amended to authorize the President to withdraw existing trade agreement benefits or to refrain from proclaiming any negotiated trade agreement concessions to countries which maintain unreasonable import restrictions which burden U.S. commerce directly or indirectly.

The committee also amended section 252(a) to provide that the President may impose duties or other import restrictions on the products of any country establishing or maintaining burdensome restrictions against U.S. agricultural products.

(*d*) *Limitations on use of Presidential authority*

The President would be required in certain circumstances to reserve from negotiations for further tariff cuts any articles with respect to which there were outstanding proclamations under the national security or escape-clause provisions of existing law or of the bill and any articles with respect to which the Tariff Commission found under existing law by majority vote that imports of such article were seriously injuring or threatening serious injury to the domestic industry concerned. The latter articles will be reserved for a 5-year period which begins on the date of enactment of this bill where the President

includes any such articles on a proposed negotiating list and the Tariff Commission finds and advises him that the economic conditions in the industry have not substantially improved since the date of the last Tariff Commission escape-clause investigation.

The bill retains the national security provisions of the present act governing the authority of the President to take action to adjust the level of imports when he finds they threaten to impair the national security.

The bill requires, in general, that tariff reductions shall be made in no less than five annual stages, except in the case of the exercise of the tropical commodity authority (sec. 2).

The bill continues in force the present embargo on certain furs and skins which are the product of the U.S.S.R. or Communist China (sec. 257(e)(1)).

3. PREAGREEMENT PROCEDURES

(*a*) *Tariff Commission Procedures* (*sec. 221*)

The bill requires the Tariff Commission to advise the President with respect to the probable economic effect of any proposed trade agreement action with respect to any article. The President is required to furnish the Tariff Commission with a list of articles which he contemplates negotiating upon, and the Commission is required, within 6 months thereafter, to give him this advice. The bill spells out certain criteria, not excluding others, for the Tariff Commission to follow. Hearings must be held where interested persons can present their views.

(*b*) *Other hearings*

The President is required to afford interested persons an opportunity to present their views on matters pertinent to a trade agreement negotiation to an agency or interagency committee which he designates. Such committee is required to hold public hearings. It is anticipated that these hearings would center about the negotiating list as well as concessions which it is suggested the United States seek from foreign countries.

4. GENERAL PROVISIONS RELATING TO TRADE AGREEMENTS

(*a*) *Special representative* (*sec. 241*)

The President is to appoint a Special Representative for Trade Negotiations who would be the chief representative of the United States at any principal negotiations conducted under the bill. He would have the rank of Ambassador Extraordinary and Plenipotentiary and be Chairman of the Interagency Trade Organization.

(*b*) *Interagency Trade Organization* (*sec. 242*)

The President is required to establish an interagency organization composed of the Special Representative, and such heads of departments and other officers as may be chosen by the President. This organization would advise the President on trade matters, including tariff adjustment for seriously injured industries and on action regarding foreign import restrictions.

(c) *Congressional delegates (sec. 243)*

Two Members of the Senate and two Members of the House of Representatives are to be accredited to U.S. trade agreement delegations.

(d) *Reports to Congress (secs. 226 and 402)*

The President is required to transmit to each House of Congress a copy of each trade agreement entered into under the authority of the Trade Expansion Act of 1962 with a statement of his reasons for entering into such agreement. The President and the Tariff Commission are to submit annual reports to the Congress on the programs under the act.

(e) *Most-favored-nation principle (secs. 231 and 251)*

The benefits on tariff concessions granted in trade agreements are to be extended to the products of all countries except the U.S.S.R., Communist China, and any nation or area dominated or controlled by the foreign government or foreign organization controlling the world Communist movement.

(f) *Foreign import restrictions (sec. 252)*

The bill requires the President to take all appropriate and feasible steps in his power to eliminate foreign import restrictions which impair the value of tariff commitments made to the United States, unjustifiably oppress the commerce of the United States, or prevent the expansion of trade. The bill does not permit the President to give concessions on U.S. duties to accomplish this end.

The President is, to the extent that such action is consistent with the purposes of the bill, to prevent the application of trade agreement benefits to products of countries which maintain unwarranted nontariff trade restrictions against the United States or which engage in discriminatory acts or policies which unjustifiably restrict U.S. commerce.

5. THE ESCAPE CLAUSE AND ADJUSTMENT ASSISTANCE

(a) *Petitions for assistance (sec. 301)*

Any firm, group of workers, or industry seeking tariff adjustment or other adjustment assistance may petition the Tariff Commission.

(b) *Tariff Commission investigations*

Upon receipt of an industry petition for tariff adjustment the Tariff Commission is required to promptly make an investigation to determine whether, as a result in major part of concessions granted on an article in trade agreements, that article is being imported into the United States in such increased quantities as to cause or threaten serious injury to the domestic industry concerned. The Commission is to take into account all economic factors which it considers relevant, including idling of productive facilities, inability to operate at a level of reasonable profit, and unemployment or underemployment. The Commission must complete the industry investigation within 6 months.

The language in the bill which modifies present law, as it relates to the criteria for determining injury in an escape clause proceeding before the Tariff Commission, is to make perfectly clear that all relevant

economic factors shall be considered. In this respect the criteria for determining injury does not differ from present law.

Reports of determinations as to the basic eligibility of a firm or a group of workers to apply for adjustment assistance of a nontariff nature must be made within 60 days from the receipt of any petition. The Commission is not required to make a full-scale, industrywide investigation in the case of petitions from individual firms or workers seeking nontariff adjustment assistance.

The Commission must report the results of its investigations to the President. In an industry investigation, should the Commission find serious injury, it is required to make a finding as to the amount of tariff adjustment which is necessary to prevent or remedy such injury.

No industry can be given tariff adjustment, nor may any firm or group of workers be given adjustment assistance, unless there is a finding that the conditions in such industry or firm or the unemployment of the workers have been, in major part, caused by increased imports resulting in major part from trade agreement concessions.

For purposes of the bill, the term "industry," in the case of any industry investigation, will include the operations of those establishments in which the domestic article in question (i.e., the article which is "like," or "directly competitive with," the imported article, as the case may be) is produced. Where a corporate entity has several establishments (e.g., divisions or plants) in some of which the domestic article in question is not produced, the establishments in which the domestic article is not produced would not be included in the industry. The concern of the Tariff Commission would be with the question of serious injury to the productive resources (e.g., employees, physical facilities, and capital) employed in the establishments in which the article in question is produced. In the case of multiproduct establishments in which productive resources are devoted to producing products A, B, C, and D, of which only product A is suffering from import competition, it is not necessary that the Commission find that the resources engaged in the production of any one or more of the other products have been injured.

(*c*) *Presidential action* (*sec. 351 and sec. 302*)

After receiving a report from the Tariff Commission containing an affirmative finding with respect to an industry, the President is authorized to adjust the tariff to a level not in excess of 50 percent above the July 1, 1934, rate of duty, or to impose additional import restrictions such as quotas, or both. Alternatively, the President may seek and negotiate an orderly marketing agreement under section 352. The President may also permit the workers and firms in such industry to be certified to be eligible to apply for adjustment assistance.

If the President takes tariff action it is to be reviewed periodically by the President and such action as has been taken may be reduced or terminated or extended by the President after he receives advice from the Tariff Commission.

(*d*) *Congressional action* (*sec. 351(a)(2)*)

In cases where the President does not take the action found by the Tariff Commission to be necessary to prevent or remedy serious injury, the bill requires Presidential implementation of a Tariff Com-

mission finding in an escape-clause case upon the adoption by the Congress, by a majority of the authorized membership of each House, of a resolution approving the action found by the Commission to be necessary.

(e) *Assistance to firms (secs. 311–320)*

Any firm which is certified to be eligible for adjustment assistance may file an application with the Secretary of Commerce. Such assistance to firms is premised upon the certification of a sound economic adjustment proposal reflecting efforts toward self-help and consideration of the interests of the firm's workers.

Adjustment assistance to firms may be given in the form of technical assistance, loans, or permission to carry back a net operating loss for tax purposes to 5 years rather than the normal 3 years.

(f) *Assistance to workers (secs. 321–337)*

Adversely affected workers would be eligible to receive adjustment assistance in the form of weekly allowances, retraining, and in certain cases, relocation allowances. Allowances will be payable only to workers who have been employed substantially over the previous 3 years, who have been attached for at least 6 months in the last year to a firm or firms, or subdivisions thereof, found to be affected by imports, and who have become unemployed because of lack of work due in major part to the effect of increased imports on such a firm after the enactment of this bill.

The trade adjustment allowance will be 65 percent of the worker's average weekly wage, subject to a limitation of 65 percent of the national average manufacturing wage. These allowances are to be received for a duration of no more than 52 weeks, with two exceptions, one to assist in completing retraining and one for workers over 60. Allowances may not be paid to workers who refuse, without good cause, to take retraining.

(g) *Reimbursement of States for adjustment assistance (sec. 323)*

The bill provides that trade readjustment allowances would replace State unemployment insurance. It provides for the payment of these allowances entirely out of Federal funds. To the extent that a worker who is entitled to such allowances for a week of unemployment is paid State unemployment insurance for the same week, the State agency will be reimbursed the amount of State unemployment insurance it has paid the worker.

The benefits under the State programs are separated from the trade readjustment allowances under the Federal program.

Technical Explanation of Provisions Amended by Senate Finance Committee

TITLE I—SHORT TITLE AND PURPOSES

Section 102. Statement of purposes

Section 102 of the bill provides that the purposes of the bill, and the authorities therein, are, through trade agreements affording mutual trade benefits to the United States and the other parties to such agreements, (1) to stimulate the economic growth of the United States and maintain and enlarge foreign markets for the products of U.S.

agriculture, industry, mining, and commerce; and (2) to strengthen economic relations with foreign countries through the development of open and nondiscriminatory trading in the free world. Such agreements could provide for tariff reductions on an article-by-article or other basis which the President found promoted the purposes of the bill.

CHAPTER 2—SPECIAL PROVISIONS CONCERNING FREE EUROPEAN TRADING COMMUNITY

Section 211. In general

Under section 211(a), in the case of any trade agreement which includes the United States and the countries of the Free European Trading Community (hereinafter in this explanation referred to as "FETC") as parties to the agreement, the limitation contained in section 201(b)(1) is not to apply to any article which is in a category with respect to which the President determines that the United States and all countries of the FETC together account for 80 percent or more of the aggregated world export value of all of the articles within the category. The determination by the President with respect to a category is required to be made before he enters into the trade agreement.

Paragraph (1) of section 211(c) provides that, for purposes of making a determination under section 211(a) with respect to any category of articles, the determination of the countries which are members of the Free European Trading Community is to be made as of the date of the President's request for advice from the Tariff Commission under section 211(d). Paragraph (2) of section 211(c) provides that aggregated world export value with respect to any category is to be computed (*a*) on the basis of a representative period in the most recent 5-year period for which statistics are available and which contains at least two periods which need not be consecutive, but each of which must contain at least 12 continuous months; (*b*) on the basis of the dollar value of exports as shown by trade statistics in use by the Department of Commerce; and (*c*) by excluding exports from any country of the FETC to another FETC country and exports to or from any country or area which, at any time during the representative period for such category, was denied the benefits of trade agreement concessions under section 5 of the Trade Agreements Extension Act of 1951, under section 231 of the bill, or under section 401(a) of the Tariff Classification Act of 1962 (which relates to Cuba). In the case of any trade agreement, the representative period must be the same for all articles within the category, but there may be different periods for different categories.

Section 211(d) states that, before the President makes a determination under section 211(a) as to any category, the Tariff Commission, upon his request, is to make and advise him of its findings as to—

(1) The representative period for such category;

(2) The aggregated world export value of the articles falling within such category; and

(3) The percentage of the aggregated world export value of such articles accounted for by the United States and the countries of the FETC.

Section 212. Agricultural commodities

Section 212 provides that in the case of any trade agreement which includes the United States and the countries of the FETC as parties,

the 50-percent limitation contained in section 201(b)(1) is not to apply to any article referred to in Agricultural Handbook No. 143, U.S. Department of Agriculture, as issued in September 1959, if (before he enters into such agreement) the President determines that such agreement will tend to assure the maintenance or expansion of U.S. exports of the like article. For this purpose, the fact that certain articles, which are referred to in such handbook, may not be classified as agricultural commodities under existing coding practices of certain governmental agencies is not to change the status of such articles as ones to which section 212 may apply.

Section 213. Tropical agricultural and forestry commodities

Section 213(a) provides that the 50-percent limitation contained in section 201(b)(1) is not to apply to any article which the President determines to be a tropical agricultural or forestry commodity, if he determines that two additional conditions are met. First, the President must determine that the like article is not produced in significant quantities in the United States. Second, the President must determine that the EEC and any non-EEC country within the FETC have made commitments with respect to duties or other import restrictions which are likely to assure access for such article to the markets of the FETC which (1) is comparable to the access which such article will have to U.S. markets, and (2) will be afforded substantially without differential treatment as among free world countries of origin.

CHAPTER 3—REQUIREMENTS CONCERNING NEGOTIATIONS

Section 221. Tariff Commission advice

Section 221(b) requires the Tariff Commission, within 6 months of receipt of the list of articles which may be considered for tariff treatment, to advise the President of its judgment as to the probable economic effect of modifications of duties or other import restrictions on industries producing like or directly competitive articles, so as to assist the President in making an informed judgment as to the impact that might be caused by such modifications on U.S. industry, agriculture, and labor. It is intended that, as under present procedures, the Tariff Commission reports to the President under section 221(b) would not be made public.

Section 221(c) contemplates that in preparing its advice to the President, the Tariff Commission shall, to the extent practicable, perform four functions. First, it shall investigate conditions, causes, and effects relating to competition between the foreign industries producing the articles in question and the domestic industries producing the like or directly competitive articles. Second, it shall analyze the production, trade, and consumption of each like or directly competitive article, taking into consideration employment, profit levels, and use of productive facilities with respect to the domestic industries concerned, and such other economic factors in such industries as it considers relevant, including prices, wages, sales, inventories, patterns of demand, capital investment, obsolescence of equipment, and diversification of production. Third, it shall describe the probable nature and extent of any significant change in employment, profit levels, use of productive facilities, and such other conditions as it deems relevant in the domestic industries concerned which

it believes such modifications would cause. Fourth, it shall make special studies, whenever deemed to be warranted, of particular proposed modifications affecting U.S. industry, agriculture, and labor.

Section 221(d) provides that the Tariff Commission is to hold public hearings in the course of preparing such advice.

Section 225. Reservation of articles from negotiations

Section 225(a) requires the President to reserve from negotiations under title II of the bill for the reduction of any duty or other import restriction or the elimination of any duty, any article as to which there is in effect, at the time of such negotiations, any Presidential action taken under section 232 (safeguarding national security) or its predecessor (sec. 2 of the Trade Agreements Act approved July 1, 1954), under section 351 (tariff adjustment) or its predecessor (the escape-clause procedure provided for in sec. 7 of the Trade Agreements Extension Act of 1951), or under section 352 (orderly marketing agreements).

Section 225(b) imposes a requirement on the President with respect to the reservation of articles from negotiation which is separate from and additional to the reservation requirement of section 225(a)(3). It requires him to reserve from negotiation, during the 5-year period beginning on the date of the enactment of the bill, any article which, by a majority of the members voting in an escape-clause proceeding under existing law, the Tariff Commission found was being imported in such increased quantities as to cause or threaten serious injury to a domestic industry. However, such reservation is mandatory only upon the request of the industry concerned made within 60 days of the publication of a list under section 221 containing the article, and only if the Tariff Commission then finds and advises the President that economic conditions in the industry have not substantially improved since the date of the Tariff Commission's report of its finding of injury to the industry. An industry may not make a request under section 225(b) if it failed to make such a request the first time such article was included in a list published under section 221.

CHAPTER 4—NATIONAL SECURITY

Section 231. Products of Communist countries or areas

Section 231 provides that, as an exception to the most-favored-nation principle, the President shall, as soon as practicable, refrain from applying any reduction, elimination, or continuance of any existing duty or other import restriction, or the continuance of any existing duty-free or excise treatment, proclaimed in carrying out any trade agreement under title II of the bill or under section 350 of the Tariff Act of 1930 to products, whether imported directly or indirectly, of the Soviet Union, Communist China, and any other country or area dominated or controlled by the foreign government or foreign organization controlling the world Communist movement. It is contemplated that this provision will permit the President, if he so determines, to continue most-favored-nation treatment to Yugoslavia and Poland.

CHAPTER 5—ADMINISTRATIVE PROVISIONS

Section 241. Special Representative for Trade Negotiations

Section 241(a) requires the President to appoint, by and with the advice and consent of the Senate, a Special Representative for Trade Negotiations, who is to be the chief representative of the United States for each general multilateral negotiation of a trade agreement under title II of the bill. By "general multilateral negotiation" is meant a negotiation among the United States and other countries where tariff concessions are proposed to be exchanged among various participants in the negotiation. He also is to be the chief representative for such other negotiations as in the President's judgment require that the Special Representative be the chief representative of the United States. In addition, he is to be the Chairman of the Interagency Trade Organization provided for in section 242(a). The Special Representative is to hold office at the pleasure of the President, receive the same compensation and allowances as a chief of mission, and have the rank of ambassador extraordinary and plenipotentiary.

Section 242. Interagency trade organization

Section 242(a) requires the President to establish an interagency organization which shall have as its members, in addition to the Special Representative for Trade Negotiations made Chairman by section 241(a), such Cabinet Officers and such other officers as the President shall designate. The organization is to meet whenever the Chairman or the President directs, and may where appropriate invite the participation in its activities of any agency not otherwise represented on the organizations.

Section 242(b) provides that the interagency trade organization established pursuant to section 242(a) will make recommendations to the President on basic policy issues concerning the trade agreements program, make recommendations to him concerning action, if any, to be taken under section 351 (relating to tariff adjustment) or section 352 (relating to orderly marketing agreements), advise the President of the results of hearings concerning foreign import restrictions held pursuant to section 252(d) and recommend appropriate action with respect thereto, and perform other trade agreement functions which the President may designate.

CHAPTER 6—GENERAL PROVISIONS

Section 251. Most-favored nation principle

Section 251 provides that, except as otherwise provided in title II of the bill, in section 350(b) of the Tariff Act of 1930, or in section 401(a) of the Tariff Classification Act of 1962, any duty or other import restriction or duty-free treatment proclaimed in carrying out any trade agreement under title II or under section 350 of the Tariff Act of 1930 shall apply to products of all foreign countries, whether imported directly or indirectly. The references in the "except" clause make clear, first, that import restrictions imposed under sections 231, 232(b), and 252 of title II need not apply to products of all countries, second, that preferential concessions negotiated on Cuban products under section 350 of the Tariff Act of 1930 do not apply to products of other countries, and, third, that trade agreement

concessions to other countries do not apply to Cuban products so long as they are denied most-favored-nation treatment under the Tariff Classification Act of 1962.

Section 252. Foreign import restrictions

Section 252(a) provides that whenever foreign import restrictions impair the value of tariff commitments made to the United States, unjustifiably oppress the commerce of the United States, or prevent the expansion of trade on a mutually advantageous basis, the President is to (1) take all appropriate and feasible steps within his power to eliminate such restrictions, (2) refrain from negotiating the reduction or elimination of any U.S. import restriction under section 201(a) in order to obtain the reduction or elimination of any such restrictions, and (3) notwithstanding any other provision of law or any provision of any trade agreement, impose duties or other import restrictions on the products of any foreign country or instrumentality establishing or maintaining such foreign import restrictions against U.S. agricultural products, to the extent he deems such duties and other import restrictions necessary to prevent the establishment or obtain the removal of such foreign import restrictions and to provide access for U.S. agricultural products to the markets of such country or instrumentality on an equitable basis.

Section 252(b) provides that whenever a foreign country or instrumentality, the products of which receive benefits of trade agreement concessions made by the United States, maintains nontariff trade restrictions (including variable import fees) which substantially burden U.S. commerce in a manner which is inconsistent with the provisions of trade agreements or engages in discriminatory or other acts (including tolerance of international cartels) or policies which unjustifiably restrict U.S. commerce, the President shall, to the extent that such action is consistent with the purposes of section 102, suspend, withdraw, or prevent the application of benefits of trade agreement concessions to products of such country or instrumentality or refrain from proclaiming benefits of trade agreement concessions to carry out a trade agreement with such country or instrumentality.

Section 252(c) provides that whenever a country or instrumentality, the products of which receive benefits of trade agreement concessions made by the United States, maintains import restrictions which are unreasonable (though they may be legally justifiable) and which either directly or indirectly substantially burden U.S. commerce, the President may, to the extent consistent with the purposes set out in section 102 and having due regard for the international obligations of the United States (1) suspend, withdraw, or prevent the application of benefits of trade agreement concessions to products of such country or instrumentality, or (2) refrain from proclaiming benefits of trade agreement concessions to carry out a trade agreement with such country or instrumentality.

Section 252(d) provides that the President is to provide an opportunity for interested persons to present views concerning the existence of import restrictions referred to in sections 252(a), (b), and (c) which are maintained against U.S. commerce. It also provides that the President shall, upon request by any interested person, provide for

public hearings after reasonable notice. Such hearings are to be provided through the organization established pursuant to section 242(a).

Section 256. Definitions

Section 256 sets out definitions of terms used in title II of the bill.

Paragraph (1) provides that the term "Free European Trading Community" means (A) the European Economic Community and (B) any country designated by the President which is a member of the European Free Trade Association.

Paragraph (2) provides that the term "European Economic Community" means the instrumentality known by such name or any successor thereto, and that the countries of the European Economic Community as of any particular date are to be those which on that date are agreed to achieve a common external tariff through the European Economic Community. The relevant date is the one determined by the context in which the term is used. Thus in section 211(c)(1), it is the date of the President's request to the Tariff Commission under section 211(d). In section 213(a)(3) (tropical agricultural and forestry commodities), it is the date of the President's determination.

Paragraph (3) provides that the term "European Free Trade Association" means the organization known by such name or any successor thereto, and the countries of the EFTA as of any date shall be those which are full members on such date.

Paragraph (4) provides that the term "agreement with the Free European Trading Community" means an agreement to which the United States and all countries of the FETC (determined as of the date such an agreement is entered into and pursuant to the definition in par. (1) of sec. 256) are parties. This paragraph further provides that each country for which the EEC signs shall be treated as a party to the agreement.

Paragraph (7) provides that the term "existing" without the specification of any date, when used in connection with any matter relating to the entering into of a trade agreement or any proclamation to carry out a trade agreement, means existing on the day on which such trade agreement was entered into, and when referring to a rate of duty, refers to the rate of duty (however established, and even though temporarily suspended by act of Congress or otherwise) existing on such date.

Section 257. Relation to other laws

Section 257(g)(1) amends section 102(1) of the Tariff Classification Act of 1962 to recognize that the President should proclaim, as required or appropriate to carry out a trade agreement, any conditional duty-free provisions of schedule 8 which are included in trade agreements, as well as provisions of schedules 1 to 7 included in such agreements.

Section 257(g)(2) amends section 203 of the Tariff Classification Act of 1962 in two respects. First, subparagraphs (1) and (2) of section 203, which presently deal with the relation between that act and the trade agreements authority under section 350 of the Tariff Act of 1930 based on rates existing on July 1, 1958, are amended to deal with the relation between that act and the authority under the Trade Expansion Act based on rates existing on July 1, 1962.

Second, a new subparagraph (3) is added to section 203 which is designed to assure that, following legislation reclassifying an article, duty-reducing authority can be fully utilized without reintroducing the superseded classification criteria. For example, a new statutory definition might result in the reclassification of an article from a category with a rate of 30 percent ad valorem to a category with a rate of 25 percent. If subsequently it were desired to negotiate a 50-percent reduction applicable to all articles in the latter category, with the 25-percent rate, there would be a question whether, without the substance of paragraph (3), this could be done without reintroducing the obsolete definition. The rate for the articles actually dutiable under that provision on July 1, 1962, could be reduced to 12½ percent, but it could be argued that the rate for the article which had become dutiable thereunder as a result of subsequent legislation could only be reduced to 15 percent—50 percent of the 30-percent rate actually existing for that article on July 1, 1962. Thus it might be necessary to subclassify this article, in terms of the obsolete classification criteria, at a somewhat higher rate in order to utilize fully the trade agreements authority for the other articles in the category. Under paragraph (3), because the reclassification would be treated as having been in effect on July 1, 1962, it would be possible to make the reduction to 12½ percent applicable to all articles in the 25-percent category without any need for reintroducing the obsolete classification criteria. The substance of this provision has been included in some individual statutes modifying rates of duty, and it is believed consistent with the purpose of tariff simplification that it be made generally applicable to all such subsequent legislation.

Section 257(h) provides that section 22 of the Agricultural Adjustment Act and import restrictions imposed thereunder shall be unaffected by the bill. Other laws not intended to be affected include the Anti-Dumping Act and section 303 of the Tariff Act of 1930, which relates to countervailing duties.

Section 258. References

This section insures that references in other laws (except the Trade Agreements Extension Act of 1951) to section 350 of the Tariff Act of 1930 and to agreements and proclamations thereunder, will also refer to the new act, unless clearly precluded by the context.

TITLE III—TARIFF ADJUSTMENT AND OTHER ADJUSTMENT ASSISTANCE

CHAPTER 1—ELIGIBILITY FOR ASSISTANCE

Section 301. Tariff Commission investigations and reports

Section 301(a)(1) provides that a petition for tariff adjustment under section 351 may be filed with the Tariff Commission by a trade association, firm, certified or recognized union, or other representative of an industry.

Section 301(a)(2) provides that a petition for a determination of eligibility to apply for adjustment assistance under chapter 2 may be filed with the Tariff Commission by a firm or its representative, and a petition for a determination of eligibility to apply for adjustment assistance under chapter 3 may be filed with the Tariff Commission

by a group of workers or by their certified or recognized union or other duly authorized representative.

Section 301(a)(3) provides that whenever a petition is filed under section 301(a), the Tariff Commission must transmit a copy of the petition to the Secretary of Commerce.

Section 301(b)(1) provides for Tariff Commission determinations of injury to domestic industries from imports. It provides that the Tariff Commission shall promptly make an industry investigation (1) upon request of the President, (2) upon resolution of either the Senate Committee on Finance or the House Committee on Ways and Means, (3) upon the Commission's own motion, or (4) upon the filing of any petition under section 301(a)(1). The investigation is to be made to determine whether, as a result in major part of concessions granted under trade agreements, the article in question is being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to the domestic industry which is producing an article which is like or directly competitive with such imported article. The phrase "as a result in major part of concessions granted under trade agreements," as applied to concessions involving reductions in duty, means the aggregate reduction which has been arrived at by means of a trade agreement or trade agreements (whether entered into under sec. 201 of this bill or under sec. 350 of the Tariff Act of 1930).

Section 301(b)(2) provides that in making an industry determination under subsection (b)(1) the Tariff Commission is to take into account all economic factors which it considers relevant, including idling of productive facilities, inability to operate at a level of reasonable profit, and unemployment or underemployment.

Section 301(b)(3) provides that for purposes of paragraph (1), increased imports shall be considered to have caused, or threatened to cause, serious injury to the domestic industry concerned when the Tariff Commission finds that such increased imports have been the major factor in causing, or threatening to cause, such injury.

Section 301(c)(1) provides for Tariff Commission determinations of injury to individual firms from imports. The Commission must promptly make an investigation to determine whether, as a result in major part of concessions granted under trade agreements, an article complained of in the petition and alleged to be like or directly competitive with an article produced by the firm is being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to such firm.

Section 301(c)(2) provides for Tariff Commission determinations of injury to workers from imports. The Commission must promptly make an investigation to determine whether, as a result in major part of concessions granted under trade agreements, an article complained of in the petition and alleged to be like or directly competitive with an article produced by such workers' firm, or an appropriate subdivision of the firm, is being imported into the United States in such increased quantities as to cause, or threaten to cause, unemployment or underemployment of a significant number or proportion of the workers of such firm or subdivision.

Section 301(c)(3) provides that for purposes of paragraphs (1) and (2), increased imports shall be considered to have caused, or threatened to cause, serious injury to a firm or unemployment or underemploy-

ment, as the case may be, when the Tariff Commission finds that such increased imports have been the major factor in causing, or threatening to cause, such injury or unemployment or underemployment.

Section 301(d)(1) provides that in the course of any industry investigation under subsection (b)(1), the Tariff Commission shall, after giving reasonable notice, hold public hearings and shall afford interested parties an opportunity to be present, to produce evidence, and to be heard at such hearings.

Section 301(d)(2) provides that in the course of any investigation regarding a firm or group of workers under subsection (c)(1) or (c)(2), respectively, the Tariff Commission shall, after reasonable notice, hold public hearings if requested by the petitioner, or if, within 10 days after notice of the filing of the petition, a hearing is requested by any other party showing a proper interest in the subject matter of the investigation, and shall afford such parties an opportunity to be present, to produce evidence, and to be heard at such hearings.

Section 301(f)(2) requires that the Tariff Commission's report of its industry determination under section 301(b) must be made not later than 6 months after the date on which the petition is filed (or the date on which the request or resolution is received or the motion is adopted, as the case may be). Upon making such report to the President, the Commission must promptly make the report public and cause a summary of the report to be published in the Federal Register.

Section 301(g) provides, in effect, that no investigation may be instituted under section 301 within 60 days after the date of enactment of the bill, without affecting, however, the carryover of investigations pending under section 7 of the Trade Agreements Extension Act of 1951 as provided in section 257(e)(3).

Section 302. Presidential action after Tariff Commission determination

Section 302(a) provides that after receiving a report from the Tariff Commission containing an affirmative finding (under sec. 301(b)) of serious injury or threat thereof with respect to any industry, the President may (1) provide tariff adjustment for such industry pursuant to section 351 or section 352; (2) provide, with respect to such industry, that firms therein may request the Secretary of Commerce for certifications of eligibility to apply for adjustment assistance under chapter 2 of title III of the bill; (3) provide, with respect to such industry, that groups of workers therein may request the Secretary of Labor for certifications of eligibility to apply for adjustment assistance under chapter 3 of title III of the bill; or (4) take any combination of such actions. No order of priority as between tariff adjustment and other adjustment assistance is established.

CHAPTER 3—ASSISTANCE TO WORKERS

Section 323. Weekly amounts

Section 323(c) provides for reduction in the amount of weekly trade readjustment allowance payable to an adversely affected worker by any amount of unemployment insurance which he has received or is seeking for the week. However, if the appropriate State or Federal agency finally determines that the worker was not entitled to unemployment insurance for such week, the reduction will not apply for that week.

Section 323(d) provides that if unemployment insurance, or a training allowance under the Manpower Development and Training Act of 1962 or the Area Redevelopment Act, is paid to an adversely affected worker for weeks for which he would have been entitled to trade readjustment allowances if he had applied for such allowances, the number of weeks for which he may receive trade readjustment allowances is reduced by the number of weeks for which such unemployment insurance or such training allowances are paid. Under this section, if his trade readjustment allowance for a week is greater than the payment he actually received, he will be paid the additional amount for each of the earlier weeks. This section also provides that in determining whether a worker would have been entitled to a trade readjustment allowance for a week for which he received State unemployment insurance or a Federal training allowance, his entitlement is to be determined without regard to the provisions of subsections (c) and (e) of section 323 and any disqualification under section 327.

Paragraph (1) of section 323(g) provides that if an adversely affected worker is paid unemployment insurance for a week for which he has received a trade readjustment allowance or for which he makes application for a trade readjustment allowance and would be entitled to receive such allowance, the State is to be reimbursed for the unemployment insurance, to the extent that the payment does not exceed the trade readjustment allowance which such worker would have received, or would have been entitled to receive, if he had not received the State payment. The reimbursement is to be made from sums appropriated to the Secretary of Labor to carry out his functions under chapter 3 of title III of the bill. The amount of such reimbursement will be determined by the Secretary of Labor on the basis of reports furnished him by the State agency. Paragraph (2) of section 323(g) provides that where a State agency is reimbursed under paragraph (1), the payments, and the period of unemployment for which the payments were made, may be disregarded under the State law (and for the purposes of applying sec. 3303 of the Internal Revenue Code of 1954) in determining the employer's rate of contribution under the experience rating provisions of the State law if, but only if, the State law provides that the worker's rights to unemployment insurance for which reimbursement was made are reinstated to him. This paragraph also provides that such reimbursement shall not entitle the worker to receive State unemployment insurance, after the termination of the period of his eligibility for trade readjustment allowances, for weeks of unemployment for which he was eligible for trade readjustment allowances.

Section 332. Payments to States

Section 332(a) provides that the Secretary of Labor will certify periodically to the Secretary of the Treasury for payment to each State which has an agreement under chapter 3 of title III of the bill the sums necessary to enable the State to make the payments of allowances provided by chapter 3 and the sums reimbursable to a State pursuant to section 323(g). This subsection also provides that sums reimbursable to a State pursuant to section 323(g) shall be credited to the account of such State in the unemployment trust fund.

CHAPTER 4—TARIFF ADJUSTMENT

Section 351. Authority

Section 351(b) prescribes the limits on increases or impositions of duties which the President may proclaim in providing tariff adjustment pursuant to subsection (a). No proclamation may be made increasing any rate of duty to a rate more than 50 percent above the rate existing on July 1, 1934, or, if the article is dutiable but no rate existed on that date, the rate existing at the time of proclamation; or, in the case of an article not subject to duty, imposing a duty in excess of 50 percent ad valorem. The term "existing on July 1, 1934" as used here is defined in paragraph (6) of section 256.

Section 351(c)(1)(B) provides for a termination date of any duty or other import restriction proclaimed under section 351 or section 7 of the 1951 act, unless extended as provided under paragraph (2) of section 351(c). Such duty or other import restriction is to terminate not later than the close of the date which in 5 years after the effective date of the initial proclamation or the date of enactment of the bill, whichever is the later.

Section 351(c)(2) provides that the duty or other import restriction proclaimed under section 351 or under section 7 of the Trade Agreements Extension Act of 1951 may be extended in whole or in part the President for such periods as he may designate, but not in excess of 5 years at any one time, if he determines that such extension is in the national interest. Before making such a determination, he is required to take into account the advice received from the Tariff Commission under subsection (d)(3) (after petition by the industry concerned) and to seek the advice of both the Secretary of Commerce and the Secretary of Labor.

Section 351(d)(1) provides that the Tariff Commission is to keep under review developments with respect to the industry concerned, so long as any increase in, or imposition of, any duty or other import restriction proclaimed pursuant to section 351 or section 7 of the Trade Agreements Extension Act of 1951 remains in force. The Tariff Commission is further required to make annual reports to the President concerning such developments.

Section 351(d)(2) provides for submission by the Tariff Commission, upon the President's request, or upon its own motion, of the advice referred to in subparagraph (A) of subsection (c)(1), of its judgment as to the probable economic effect on the industry concerned of the reduction or termination of the increase or imposition which has been proclaimed under section 351 or section 7 of the 1951 act.

Section 352. Orderly marketing agreements

Section 352(a) provides that after receiving an affirmative finding of the Tariff Commission under section 301(b) with respect to an industry, the President may, as an alternative to the action authorized by section 351(a)(1), but subject to the congressional review procedures of the other paragraphs of section 351(a), negotiate international agreements with foreign countries limiting the export from such countries and the import into the United States of the article causing or threatening to cause serious injury to such industry, whenever he

determines that such an agreement would be more appropriate than tariff relief to prevent or remedy serious injury to the industry.

Section 352(b) provides that in order to carry out such an agreement, the President is authorized to issue regulations governing the entry into the United States or the withdrawal from warehouse of the article covered by the agreement. Further, in order to carry out a multilateral agreement concluded under subsection (a) among countries accounting for a significant part of world trade in the article covered by the agreement, the President may also issue such regulations governing the like article which is the product of countries not parties to the agreement.

Section 353. Additional authority to increase tariffs and impose quotas

Section 353 provides that, notwithstanding any other provision of law, the President may, when he finds it in the national interest to do so, increase any existing duty to the extent he finds necessary, impose a duty on an article to the extent he finds necessary, and impose such other import restrictions to the extent he finds necessary.

Section 405. Definitions

Paragraph (5) provides that a product of a country or area is an article which is the growth, produce, or manufacture of such country or area.

Changes in Existing Law

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 350 OF THE TARIFF ACT OF 1930

Part III—Promotion of Foreign Trade

Sec. 350. (a)(1) For the purpose of expanding foreign markets for the products of the United States (as a means of assisting in establishing and maintaining a better relationship among various branches of American agriculture, industry, mining, and commerce) by regulating the admission of foreign goods into the United States in accordance with the characteristics and needs of various branches of American production so that foreign markets will be made available to those branches of American production which require and are capable of developing such outlets by affording corresponding market opportunities for foreign products in the United States, the President, whenever he finds as a fact that any existing duties or other import restrictions of the United States or any foreign country are unduly burdening and restricting the foreign trade of the United States and that the purpose above declared will be promoted by the means hereinafter specified, is authorized from time to time—

(A) To enter into foreign trade agreements with foreign governments or instrumentalities thereof: *Provided,* That the enactment of the Trade Agreements Extension Act of 1955 shall not be construed to determine or indicate the approval or disapproval by the Congress of the executive agreement known as the General Agreement on Tariffs and Trade.

(B) To proclaim such modifications of existing duties and other import restrictions, or such additional import restrictions, or such continuance, and for such minimum periods, of existing customs or excise treatment of any article covered by foreign trade agreements, as are required or appropriate to carry out any foreign trade agreement that the President has entered into hereunder.

(2) No proclamation pursuant to paragraph (1)(B) of this subsection shall be made—

(A) Increasing by more than 50 per centum any rate of duty existing on July 1, 1934; except that a specific rate of duty existing on July 1, 1934, may be converted to its ad valorem equivalent based on the value of imports of the article concerned during the calendar year 1934 (determined in the same manner as provided in subparagraph (D)(ii)) and the proclamation may provide an ad valorem rate of duty not in excess of 50 per centum above such ad valorem equivalent.

(B) Transferring any article between the dutiable and free lists.

(C) In order to carry out a foreign trade agreement entered into by the President before June 12, 1955, or with respect to which notice of intention to negotiate was published in the Federal Register on November 16, 1954, decreasing by more than 50 per centum any rate of duty existing on January 1, 1945.

(D) In order to carry out a foreign trade agreement entered into by the President on or after June 12, 1955, and before July 1, 1958, decreasing (except as provided in subparagraph (C) of this paragraph) any rate of duty below the lowest of the following rates:

(i) The rate 15 per centum below the rate existing on January 1, 1955.

(ii) In the case of any article subject to an ad valorem rate of duty above 50 per centum (or a combination of ad valorem rates aggregating more than 50 per centum), the rate 50 per centum ad valorem (or a combination of ad valorem rates aggregating 50 per centum). In the case of any article subject to a specific rate of duty (or a combination of rates including a specific rate) the ad valorem equivalent of which has been determined by the President to have been above 50 per centum during a period determined by the President to be a representative period, the rate 50 per centum ad valorem or the rate (or a combination of rates), however stated, the ad valorem equivalent of which the President determines would have been 50 per centum during such period. The standards of valuation contained in section 402 or 402a of this Act (as in effect, with respect to the article concerned, during the representative period) shall be utilized by the President, to the maximum extent he finds such utilization practicable, in making the determinations under the preceding sentence.

(E) In order to carry out a foreign trade agreement entered into by the President on or after July 1, 1958, decreasing any rate of duty below the lowest of the rates provided for in paragraph (4)(A) of this subsection.

(3)(A) Subject to the provisions of subparagraphs (B) and (C) of this paragraph and of subparagraph (B) of paragraph (4) of this subsection, the provisions of any proclamation made under paragraph (1)(B) of this subsection, and the provisions of any proclamation of suspension under paragraph (5) of this subsection, shall be in effect from and after such time as is specified in the proclamation.

(B) In the case of any decrease in duty to which paragraph (2)(D) of this subsection applies—

(i) if the total amount of the decrease under the foreign trade agreement does not exceed 15 per centum of the rate existing on January 1, 1955, the amount of decrease becoming initially effective at one time shall not exceed 5 per centum of the rate existing on January 1, 1955;

(ii) except as provided in clause (i), not more than one-third of the total amount of the decrease under the foreign trade agreement shall become initially effective at one time; and

(iii) no part of the decrease after the first part shall become initially effective until the immediately previous part shall have been in effect for a period or periods aggregating not less than one year.

(C) No part of any decrease in duty to which the alternative specified in paragraph (2)(D)(i) of this subsection applies shall become initially effective after the expiration of the three-year period which begins on July 1, 1955. If any part of such decrease has become effective, then for purposes of this subparagraph any time thereafter during which such part of the decrease is not in effect by reason of legislation of the United States or action thereunder shall be excluded in determining when the three-year period expires.

(D) If (in order to carry out a foreign trade agreement entered into by the President on or after June 12, 1955) the President determines that such action will simplify the computation of the amount of duty imposed with respect to an article, he may exceed any limitation specified in paragraph (2) (C) or (D) or paragraph (4) (A) or (B) of this subsection or subparagraph (B) of this paragraph by not more than whichever of the following is lesser:

(i) The difference between the limitation and the next lower whole number, or

(ii) One-half of 1 per centum ad valorem.

In the case of a specific rate (or of a combination of rates which includes a specific rate), the one-half of 1 per centum specified in clause (ii) of the preceding sentence shall be determined in the same manner as the ad valorem equivalent of rates not stated wholly in ad valorem terms is determined for the purposes of paragraph (2)(D)(ii) of this subsection.

(4)(A) No proclamation pursuant to paragraph (1)(B) of this subsection shall be made, in order to carry out a foreign trade agreement entered into by the President on or after July 1, 1958, decreasing any rate of duty below the lowest of the following rates:

(i) The rate which would result from decreasing the rate existing on July 1, 1958, by 20 per centum of such rate.

(ii) Subject to paragraph (2)(B) of this subsection, the rate 2 per centum ad valorem below the rate existing on July 1, 1958.

(iii) The rate 50 per centum ad valorem or, in the case of any article subject to a specific rate of duty or to a combination of rates including a specific rate, any rate (or combination of rates), however stated, the ad valorem equivalent of which has been determined as 50 per centum ad valorem.

The provisions of clauses (ii) and (iii) of this subparagraph and of subparagraph (B)(ii) of this paragraph shall, in the case of any article subject to a combination of ad valorem rates of duty, apply to the aggregate of such rates; and, in the case of any article subject to a specific rate of duty or to a combination of rates including a specific rate, such provisions shall apply on the basis of the ad valorem equivalent of such rate or rates, during a representative period (whether or not such period includes July 1, 1958), determined in the same manner as the ad valorem equivalent of rates not stated wholly in ad valorem terms is determined for the purpose of paragraph (2)(D)(ii) of this subsection.

(B)(i) In the case of any decrease in duty to which clause (i) of subparagraph (A) of this paragraph applies, such decrease shall become initially effective in not more than four annual stages, and no amount of decrease becoming initially effective at one time shall exceed 10 per centum of the rate of duty existing on July 1, 1958, or, in any case in which the rate has been increased since that date, exceed such 10 per centum or one-third of the total amount of the decrease under the foreign trade agreement, whichever is the greater.

(ii) In the case of any decrease in duty to which clause (ii) of subparagraph (A) of this paragraph applies, such decrease shall become initially effective in not more than four annual stages, and no amount of decrease becoming initially effective at one time shall exceed 1 per centum ad valorem or, in any case in which the rate has been increased since July 1, 1958, exceed such 1 per centum or one-third of the total amount of the decrease under the foreign trade agreement, whichever is the greater.

(iii) In the case of any decrease in duty to which clause (iii) of subparagraph (A) of this paragraph applies, such decrease shall become initially effective in not more than four annual stages, and no amount of decrease becoming initially effective at one time shall exceed one-third of the total amount of the decrease under the foreign trade agreement.

(C) In the case of any decrease in duty to which subparagraph (A) of this paragraph applies (i) no part of a decrease after the first part shall become initially effective until the immediately previous part shall have been in effect for a period or periods aggregating not less than one year, nor after the first part shall have been in effect for a period or periods aggregating more than three years, and (ii) no part of a decrease shall become initially effective after the expiration of the four-year period which begins on July 1, 1962. If any part of a decrease has become effective, then for the purposes of clauses (i) and (ii) of the preceding sentence any time thereafter during which such part of the decrease is not in effect by reason of legislation of the United States or action thereunder shall be excluded in determining when the three-year period or the four-year period, as the case may be, expires.

[(5) Subject to the provisions of section 5 of the Trade Agreements Extension Act of 1951 (19 U.S.C., sec. 1362), duties and other import

restrictions proclaimed pursuant to this section shall apply to articles the growth, produce, or manufacture of all foreign countries, whether imported directly or indirectly: *Provided,* That the President shall, as soon as practicable, suspend the application to articles the growth, produce, or manufacture of any country because of its discriminatory treatment of American commerce or because of other acts (including the operations of international cartels) or policies which in his opinion tend to defeat the purpose of this section.]

(6) The President may at any time terminate, in whole or in part, any proclamation made pursuant to this section.

(b) Nothing in this section *or the Trade Expansion Act of 1962* shall be construed to prevent the application, with respect to rates of duty established under this section *or the Trade Expansion Act of 1962* pursuant to agreements with countries other than Cuba, of the provisions of the treaty of commercial reciprocity concluded between the United States and the Republic of Cuba on December 11, 1902, or to preclude giving effect to an agreement with Cuba concluded under this section, modifying the existing preferential customs treatment of any article the growth, produce, or manufacture of Cuba. Nothing in this Act *or the Trade Expansion Act of 1962* shall be construed to preclude the application to any product of Cuba (including products preferentially free of duty) of a rate of duty not higher than the rate applicable to the like products of other foreign countries (except the Philippines), whether or not the application of such rate involves any preferential customs treatment. No rate of duty on products of Cuba shall be decreased—

(1) In order to carry out a foreign trade agreement entered into by the President before June 12, 1955, by more than 50 per centum of the rate of duty existing on January 1, 1945, with respect to products of Cuba.

(2) In order to carry out a foreign trade agreement entered into by the President on or after June 12, 1955, *and before July 1, 1962,* below the applicable alternative specified in subsection (a)(2) (C) or (D) or (4)(A) (subject to the applicable provisions of subsection (a)(3) (B), (C), and (D) and (4)(B) and (C)), each such alternative to be read for the purposes of this paragraph as relating to the rate of duty applicable to products of Cuba. With respect to products of Cuba, the limitation of subsection (a)(2)(D)(ii) or (4)(A)(iii) may be exceeded to such extent as may be required to maintain an absolute margin of preference to which such products are entitled.

(3) In order to carry out a foreign trade agreement entered into after June 30, 1962, and before July 1, 1967, below the lowest rate permissible by applying title II of the Trade Expansion Act of 1962 to the rate of duty (however established, and even though temporarily suspended by Act of Congress or otherwise) existing on July 1, 1962, with respect to such product.

(c)(1) As used in this section, the term "duties and other import restrictions" includes (A) rate and form of import duties and classification of articles, and (B) limitations, prohibitions, charges, and exactions other than duties, imposed on importation or imposed for the regulation of imports.

(2) For purposes of this section—

(A) Except as provided in subsection (d), the terms "existing on July 1, 1934", "existing on January 1, 1945", "existing on January 1, 1955", and "existing on July 1, 1958" refer to rates of duty (however established, and even though temporarily suspended by Act of Congress or otherwise) existing on the date specified, except rates in effect by reason of action taken pursuant to section 5 of the Trade Agreements Extension Act of 1951 (19 U.S.C., sec. 1362).

(B) The term "existing" without the specification of any date, when used with respect to any matter relating to the conclusion of, or proclamation to carry out, a foreign trade agreement, means existing on the day on which that trade agreement is entered into.

(d)(1) When any rate of duty has been increased or decreased for the duration of war or an emergency, by agreement or otherwise, any further increase or decrease shall be computed upon the basis of the post-war or post-emergency rate carried in such agreement or otherwise.

(2) Where under a foreign trade agreement the United States has reserved the unqualified right to withdraw or modify, after the termination of war or an emergency, a rate on a specific commodity, the rate on such commodity to be considered as "existing on January 1, 1945" for the purpose of this section shall be the rate which would have existed if the agreement had not been entered into.

(3) No proclamation shall be made pursuant to this section for the the purpose of carrying out any foreign trade agreement the proclamation with respect to which has been terminated in whole by the President prior to the date this subsection is enacted.

[(e)(1) The President shall submit to the Congress an annual report on the operation of the trade agreements program, including information regarding new negotiations, modifications made in duties and import restrictions of the United States, reciprocal concessions obtained, modifications of existing trade agreements in order to effectuate more fully the purposes of the trade agreements legislation (including the incorporation therein of escape clauses), the results of action taken to obtain removal of foreign trade restrictions (including discriminatory restrictions) against United States exports, remaining restrictions, and the measures available to seek their removal in accordance with the objectives of this section, and other information relating to that program and to the agreements entered into thereunder.

[(2) The Tariff Commission shall at all times keep informed concerning the operation and effect of provisions relating to duties or other import restrictions of the United States contained in trade agreements heretofore or hereafter entered into by the President under the authority of this section. The Tariff Commission, at least once a year, shall submit to the Congress a factual report on the operation of the trade-agreements program.]

(f) It is hereby declared to be the sense of the Congress that the President, during the course of negotiating any foreign trade agreement under this section, should seek information and advice with respect to such agreement from representatives of industry, agriculture, and labor.

SECTION 2(a) OF THE ACT OF JUNE 12, 1934 (19 U.S.C., SEC. 1352(a))

SEC. 2. (a) Subparagraph (d) of paragraph 369, the last sentence of paragraph 1402, and the provisos to paragraphs 371, 401, 1650, 1687, and 1803(1) of the Tariff Act of 1930 are repealed. The provisions of section 336 of the Tariff Act of 1930 shall not apply to any article with respect to the importation of which into the United States a foreign trade agreement has been concluded pursuant to this Act *or the Trade Expansion Act of 1962*, or to any provision of any such agreement. The third paragraph of section 311 of the Tariff Act of 1930 shall apply to any agreement concluded pursuant to this Act *or the Trade Expansion Act of 1962* to the extent only that such agreement assures to the United States a rate of duty on wheat flour produced in the United States which is preferential in respect to the lowest rate of duty imposed by the country with which such agreement has been concluded on like flour produced in any other country; and upon the withdrawal of wheat flour from bonded manufacturing warehouses for exportation to the country with which such agreement has been concluded, there shall be levied, collected, and paid on the imported wheat used, a duty equal to the amount of such assured preference.

SECTIONS 5, 6, 7, AND 8(a) OF THE TRADE AGREEMENTS EXTENSION ACT OF 1951

[SEC. 5. As soon as practicable, the President shall take such action as is necessary to suspend, withdraw or prevent the application of any reduction in any rate of duty, or binding of any existing customs or excise treatment, or other concession contained in any trade agreement entered into under the authority of section 350 of the Tariff Act of 1930, as amended and extended, to imports from the Union of Soviet Socialist Republics and to imports from any nation or area dominated or controlled by the foreign government or foreign organization controlling the world Communist movements.

[SEC. 6. (a) No reduction in any rate of duty, or binding of any existing customs or excise treatment, or other concession hereafter proclaimed under section 350 of the Tariff Act of 1930, as amended, shall be permitted to continue in effect when the product on which the concession has been granted is, as a result, in whole or in part, of the duty or other customs treatment reflecting such concession, being imported into the United States in such increased quantities, either actual or relative, as to cause or threaten serious injury to the domestic industry producing like or directly competitive products.

[(b) The President, as soon as practicable, shall take such action as may be necessary to bring trade agreements heretofore entered into under section 350 of the Tariff Act of 1930, as amended, into conformity with the policy established in subsection (a) of this section.

[SEC. 7. (a) Upon the request of the President, upon resolution of either House of Congress, upon resolution of either the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives, upon its own motion, or upon applica-

tion of any interested party (including any organization or group of employees), the United States Tariff Commission shall promptly make an investigation and make a report thereon not later than six months after the application is made to determine whether any product upon which a concession has been granted under a trade agreement is, as a result, in whole or in part, of the duty or other customs treatment reflecting such concession, being imported into the United States in such increased quantities, either actual or relative, as to cause or threaten serious injury to the domestic industry producing like or directly competitive products.

[In the course of any such investigation, whenever it finds evidence of serious injury or threat of serious injury or whenever so directed by resolution of either the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives, the Tariff Commission shall hold hearings giving reasonable public notice thereof and shall afford reasonable opportunity for interested parties to be present, to produce evidence, and to be heard at such hearings.

[Should the Tariff Commission find, as the result of its investigation and hearings, that a product on which a concession has been granted is, as a result, in whole or in part, of the duty or other customs treatment reflecting such concession, being imported in such increased quantities, either actual or relative as to cause or threaten serious injury to the domestic industry producing like or directly competitive products, it shall recommend to the President the withdrawal or modification of the concession, its suspension in whole or in part, or the establishment of import quotas, to the extent and for the time necessary to prevent or remedy such injury. The Tariff Commission shall immediately make public its findings and recommendations to the President, including any dissenting or separate findings and recommendations, and shall cause a summary thereof to be published in the Federal Register.

[(b) In arriving at a determination in the foregoing procedure the Tariff Commission, without excluding other factors, shall take into consideration a downward trend of production, employment, prices, profits, or wages in the domestic industry concerned, or a decline in sales, an increase in imports, either actual or relative to domestic production, a higher or growing inventory, or a decline in the proportion of the domestic market supplied by domestic producers.

[Increased imports, either actual or relative, shall be considered as the cause or threat of serious injury to the domestic industry producing like or directly competitive products when the Commission finds that such increased imports have contributed substantially towards causing or threatening serious injury to such industry.

[(c)(1) Upon receipt of the Tariff Commission's report of its investigation and hearings, the President may make such adjustments in the rates of duty, impose such quotas, or make such other modifications as are found and reported by the Commission to be necessary to prevent or remedy serious injury to the respective domestic industry. If the President does not take such action within sixty days he shall immediately submit a report to the Committee on Ways and Means of the House and to the Committee on Finance of the Senate stating why he has not made such adjustments or modifications, or imposed such quotas.

[(2) The action so found and reported by the Commission to be necessary shall take effect (as provided in the first sentence of paragraph (1) or in paragraph (3), as the case may be)—

[(A) if approved by the President, or

[(B) if disapproved by the President in whole or in part, upon the adoption by both Houses of the Congress (within the 60-day period following the date on which the report referred to in the second sentence of paragraph (1) is submitted to such committees), by the yeas and nays by a two-thirds vote of each House, of a concurrent resolution stating in effect that the Senate and House of Representatives approve the action so found and reported by the Commission to be necessary.

For the purposes of subparagraph (B), in the computation of the 60-day period there shall be excluded the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die.

[(3) In any case in which the contingency set forth in paragraph (2)(B) occurs, the President shall (within 15 days after the adoption of such resolution) take such action as may be necessary to make the adjustments, impose the quotas, or make such other modifications as were found and reported by the Commission to be necessary.

[(d) When in the judgment of the Tariff Commission no sufficient reason exists for a recommendation to the President that a concession should be withdrawn or modified or a quota established, it shall make and publish a report stating its findings and conclusions.

[(e) As used in this Act, the terms "domestic industry producing like or directly competitive products" and "domestic industry producing like or directly competitive articles" mean that portion or subdivision of the producing organizations manufacturing, assembling, processing, extracting, growing, or otherwise producing like or directly competitive products or articles in commercial quantities. In applying the preceding sentence, the Commission shall (so far as practicable) distinguish or separate the operations of the producing organizations involving the like or directly competitive products or articles referred to in such sentence from the operations of such organizations involving other products or articles.

[(f) In carrying out the provisions of this section the President may, notwithstanding section 350(a)(2) of the Tariff Act of 1930, as amended, impose a duty not in excess of 50 per centum ad valorem on any article not otherwise subject to duty.

[SEC. 8. (a) In any case where the Secretary of Agriculture determines and reports to the President and to the Tariff Commission with regard to any agricultural commodity that due to the perishability of the commodity a condition exists requiring emergency treatment, the Tariff Commission shall make an immediate investigation * * * under the provisions of section 7 of this Act to determine the facts and make recommendations to the President for such relief under those provisions as may be appropriate. The President may take immediate action however, without awaiting the recommendations of the Tariff Commission if in his judgment the emergency requires such action. In any case the report and findings of the Tariff Commission and the decision of the President shall be made at the earliest possible date and in any event not more than 25 calendar days after the submission of the case to the Tariff Commission.]

SECTION 2 OF THE ACT OF JULY 1, 1954

[SEC. 2. (a) No action shall be taken pursuant to section 350 of the Tariff Act of 1930, as amended (19 U.S.C., sec. 1351), to decrease the duty on any article if the President finds that such reduction would threaten to impair the national security.

[(b) Upon request of the head of any Department or Agency, upon application of an interested party, or upon his own motion, the Director of the Office of Defense and Civilian Mobilization (hereinafter in this section referred to as the "Director") shall immediately make an appropriate investigation, in the course of which he shall seek information and advice from other appropriate Departments and Agencies, to determine the effects on the national security of imports of the article which is the subject of such request, application, or motion. If, as a result of such investigation, the Director is of the opinion that the said article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security, he shall promptly so advise the President, and, unless the President determines that the article is not being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security as set forth in this section, he shall take such action, and for such time, as he deems necessary to adjust the imports of such article and its derivatives so that such imports will not so threaten to impair the national security.

[(c) For the purposes of this section, the Director and the President shall, in the light of the requirements of national security and without excluding other relevant factors, give consideration to domestic production needed for projected national defense requirements, the capacity of domestic industries to meet such requirements, existing and anticipated availabilities of the human resources, products, raw materials, and other supplies and services essential to the national defense, the requirements of growth of such industries and such supplies and services including the investment, exploration, and development necessary to assure such growth, and the importation of goods in terms of their quantities, availabilities, character, and use as those affect such industries and the capacity of the United States to meet national security requirements. In the administration of this section, the Director and the President shall further recognize the close relation of the economic welfare of the Nation to our national security, and shall take into consideration the impact of foreign competition on the economic welfare of individual domestic industries; and any substantial unemployment, decrease in revenues of government, loss of skills or investment, or other serious effects resulting from the displacement of any domestic products by excessive imports shall be considered, without excluding other factors, in determining whether such weakening of our internal economy may impair the national security.

[(d) A report shall be made and published upon the disposition of each request, application, or motion under subsection (b). The Director shall publish procedural regulations to give effect to the authority conferred on him by subsection (b).

[(e) The Director, with the advice and consultation of other appropriate Departments and Agencies and with the approval of the President, shall by February 1, 1959, submit to the Congress a report

on the administration of this section. In preparing such a report, an analysis should be made of the nature of projected national defense requirements, the character of emergencies that may give rise to such requirements, the manner in which the capacity of the economy to satisfy such requirements can be judged, the alternative means of assuring such capacity and related matters.]

INTERNAL REVENUE CODE OF 1954

SEC. 172. NET OPERATING LOSS DEDUCTION.

(a) DEDUCTION ALLOWED.—There shall be allowed as a deduction for the taxable year an amount equal to the aggregate of (1) the net operating loss carryovers to such year, plus (2) this net operating loss carrybacks to such year. For purposes of the subtitle, the term "net operating loss deduction" means the deduction allowed by this subsection.

(b) NET OPERATING LOSS CARRYBACKS AND CARRYOVERS.—

(1) YEARS TO WHICH LOSS MAY BE CARRIED.—A net operating loss for any taxable year ending after December 31, 1957, shall be—

(A) *except as provided in subparagraph (B)*, a net operating loss carryback to each of the 3 taxable years preceding the taxable year of such loss, [and]

(B) in the case of a taxpayer with respect to a taxable year ending on or after December 31, 1962, for which a certification has been issued under section 317 of the Trade Expansion Act of 1962, a net operating loss carryback to each of the 5 taxable years preceding the taxable year of such loss, and

[(B)] *(C)* a net operating loss carryover to each of the 5 taxable years following the taxable year of such loss.

(2) AMOUNT OF CARRYBACKS AND CARRYOVERS.—Except as provided in subsection (i), the entire amount of the net operating loss for any taxable year (hereinafter in this section referred to as the "loss year") shall be carried to the earliest of the [8] taxable years to which (by reason of [subparagraphs (A) and (B) of] paragraph (1)) such loss may be carried. The portion of such loss which shall be carried to each of the other [7] taxable years shall be the excess, if any, of the amount of such loss over the sum of the taxable income for each of the prior taxable years to which such loss may be carried. For purposes of the preceding sentence, the taxable income for any such prior taxable year shall be computed—

(A) with the modifications specified in subsection (d) other than paragraphs (1), (4), and (6) thereof; and

(B) by determining the amount of the net operating loss deduction without regard to the net operating loss for the loss year or for any taxable year thereafter,

and the taxable income so computed shall not be considered to be less than zero.

(3) SPECIAL RULES.—

(A) Paragraph (1)(B) shall apply only if—

(i) there has been filed, at such time and in such manner as may be prescribed by the Secretary or his delegate, a notice of filing of the application under sec-

tion 317 of the Trade Expansion Act of 1962 for tax assistance, and, after its issuance, a copy of the certification under such section, and

(ii) the taxpayer consents in writing to the assessment, within such period as may be agreed upon with the Secretary or his delegate, of any deficiency for any year to the extent attributable to the disallowance of a deduction previously allowed with respect to such net operating loss, even though at the time of filing such consent the assessment of such deficiency would otherwise be prevented by the operation of any law or rule of law.

(B) In the case of—

(i) a partnership and its partners, or

(ii) an electing small business corporation under subchapter S and its shareholders,

paragraph (1)(B) shall apply as determined under regulations prescribed by the Secretary or his delegate. Such paragraph shall apply to a net operating loss of a partner or such a shareholder only if it arose predominantly from losses in respect of which certifications under section 317 of the Trade Expansion Act of 1962 were filed under this section.

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CHAPTER 66—LIMITATIONS

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Subchapter A—Limitations on Assessment and Collection

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SEC. 6501. LIMITATIONS ON ASSESSMENT AND COLLECTION.

(a) GENERAL RULE.—Except as otherwise provided in this section, the amount of any tax imposed by this title shall be assessed within 3 years after the return was filed (whether or not such return was filed on or after the date prescribed) or, if the tax is payable by stamp, at any time after such tax became due and before the expiration of 3 years after the date on which any part of such tax was paid, and no proceeding in court without assessment for the collection of such tax shall be begun after the expiration of such period.

* * * * * * *

(h) NET OPERATING LOSS CARRYBACKS.—In the case of a deficiency attributable to the application to the taxpayer of a net operating loss carryback (including deficiencies which may be assessed pursuant to the provisions of section 6213(b)(2)), such deficiency may be assessed at any time before the expiration of the period within which a deficiency for the taxable year of the net operating loss which results in such carryback may be assessed, *or within 18 months after the date on which the taxpayer files in accordance with section 172(b)(3) a copy of the certification (with respect to such taxable year) issued under section 317 of the Trade Expansion Act of 1962, whichever is later.*

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Subchapter B—Limitations on Credit or Refund

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SEC. 6511. LIMITATIONS ON CREDIT OR REFUND.

(a) PERIOD OF LIMITATION ON FILING CLAIM.—Claim for credit or refund of an overpayment of any tax imposed by this title in respect of which tax the taxpayer is required to file a return shall be filed by the taxpayer within 3 years from the time the return was filed or 2 years from the time the tax was paid, whichever of such periods expires the later, or if no return was filed by the taxpayer, within 2 years from the time the tax was paid. Claim for credit or refund of an overpayment of any tax imposed by this title which is required to be paid by means of a stamp shall be filed by the taxpayer within 3 years from the time the tax was paid.

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(d) SPECIAL RULES APPLICABLE TO INCOME TAXES.—

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(2) SPECIAL PERIOD OF LIMITATION WITH RESPECT TO NET OPERATING LOSS CARRYBACKS.—

(A) PERIOD OF LIMITATION.—If the claim for credit or refund relates to an overpayment attributable to a net operating loss carryback, in lieu of the 3-year period of limitation prescribed in subsection (a), the period shall be that period which ends with the expiration of the 15th day of the 40th month (or *the* 39th month, in the case of a corporation) following the end of the taxable year of the net operating loss which results in such carryback, or the period prescribed in subsection (c) in respect of such taxable year, whichever expires later; except that [,]—

(i) with respect to an overpayment attributable to a net operating loss carryback to any year on account of a certification issued to the taxpayer under section 317 of the Trade Expansion Act of 1962, the period shall not expire before the expiration of the sixth month following the month in which such certification is issued to the taxpayer, and

(ii) with respect to an overpayment attributable to the creation of, or an increase in, a net operating loss carryback as a result of the elimination of excessive profits by a renegotiation (as defined in section 1481(a)(1)(A)), the period shall not expire before September 1, 1959, or the expiration of the twelfth month following the month in which the agreement or order for the elimination of such excessive profits becomes final, whichever is the later.

In the case of such a claim, the amount of the credit or refund may exceed the portion of the tax paid within the period provided in subsection (b)(2) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to such carryback.

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TARIFF CLASSIFICATION ACT OF 1962

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SEC. 102. At the earliest practicable date, the President shall take such action as he deems necessary to bring the United States schedules annexed to foreign trade agreements into conformity with the Tariff Schedules of the United States and, after such action is completed, the President shall proclaim—

(1) the rates of duty in rate column numbered 1 [of schedules 1 to 7, inclusive,] and the other provisions of the Tariff Schedules of the United States, which are required or appropriate to carry out the foreign trade agreements to which the United States is a contracting party;

(2) the temporary modifications set forth in part 2 of the appendix to the tariff schedules (that is, those modifications proclaimed pursuant to the provisions of section 7 of the Trade Agreements Extension Act of 1951, as amended (19 U.S.C. 1364), and of other trade-agreements legislation);

(3) the additional import restrictions set forth in part 3 of the appendix to the tariff schedules (that is, those restrictions proclaimed pursuant to section 22 of the Agricultural Adjustment Act, as amended (7 U.S.C. 624)); and

(4) the nations or areas and countries set forth in general headnote 3(d) of the Tariff Schedules of the United States (relating to the treatment of products of certain Communist-dominated nations or areas and countries discriminating against American commerce).

* * * * * * *

[SEC. 203. For purposes of applying section 350 of the Tariff Act of 1930, as amended, with respect to the Tariff Schedules of the United States—

[(1) The rates of duty in rate column numbered 2 of schedules 1 to 7, inclusive, of the Tariff Schedules of the United States, shall be treated as the rates of duty existing on July 1, 1934.

[(2) The rates of duty in rate column numbered 1 of schedules 1 to 7, inclusive, of the Tariff Schedules of the United States shall be treated as the rates of duty existing on July 1, 1958; except that with respect to any articles the rates for which have been permanently changed by statute or Presidential proclamation since July 1, 1958, the rates to be regarded as existing on that date shall be rates which the Commission specifically declares, in the supplemental reports made pursuant to section 101(c) of this Act, to be rates which, in its judgment, conform to the fullest extent practicable to the rates presently regarded as existing on July 1, 1958.]

SEC. 203. For purposes of applying section 350 of the Tariff Act of 1930, as amended, and the Trade Expansion Act of 1962 with respect to the Tariff Schedules of the United States—

(1) The rate of duty in rate column numbered 2 for each item in schedules 1 to 7, inclusive, of the Tariff Schedules of the United States, shall be treated as the rate of duty existing on July 1, 1934.

(2) The lowest preferential or nonpreferential rate of duty in rate column numbered 1 for each item in schedules 1 to 7, inclusive, of the

Tariff Schedules of the United States on the effective date provided for in section 501(a) of this Act shall be treated as the preferential or nonpreferential rate of duty, respectively, existing on July 1, 1962; except that with respect to any article the rate for which in schedules 1 to 7 has been changed by Presidential proclamation after June 30, 1962, the rate to be regarded as existing on July 1, 1962, shall be the rate which the Commission specifically declares, in a supplemental report made pursuant to section 101(c) of this Act, to be the rate which, in its judgment, conforms to the fullest extent practicable to the rate regarded as existing on July 1, 1962, under section 256(5) of the Trade Expansion Act of 1962.

(3) Legislation entering into force after the effective date provided for in section 501(a) of this Act which results in the permanent reclassification of any article without specifying the rate of duty applicable thereto, and proclamations under section 202(c) of this Act, shall be considered as having been in effect since June 30, 1962.

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INDIVIDUAL VIEWS OF SENATOR CARL T. CURTIS ON H.R. 11970

This measure goes far beyond the existing trade agreements program and I do not favor its enactment in its present form.

The European Common Market is a very desirable entity. It will lead to greater unity among the nations of Europe; it will elevate their economies and strengthen their political ties. It is a fortress against international communism and our national policy should be to encourage and to cooperate with the Common Market. The bill presented by the committee will not, in my opinion, be mutually advantageous to the United States and to the European nations. Both need each other and whatever weakens the United States weakens Europe.

Under the trade agreements program existing for more than a quarter of a century the Congress has delegated its constitutional powers to levy, modify and repeal taxes, and its powers to regulate portions of our commerce to the executive. In the past there have been certain limitations in this delegation of power. In most recent years the Congress has provided for safeguards such as the peril point and escape clause procedures. The measure before us departs from all these previous concepts.

Our reciprocal trade program of the past is not free of criticism. The United States has allowed foreign countries to impose many nontariff barriers against us such as quotas, embargos, import licenses, unreasonable inspection, variable import fees, currency manipulations, and other harassments. In the past the Congress has authorized the President, in his negotiations, to lower tariffs by 50 percent. Under the successive acts passed, the United States has bargained away 80 percent of its tariffs and bargaining power. The result is not praiseworthy. The average U.S. tariff on dutiable goods at present is 11 percent while the average for other major industrial nations is 14 percent. Many important examples are in greater contrast—for instance, the tariff on European cars sold in the United States is 6½ percent and the tariff on American cars, under EEC proposals will

soon be 22½ percent. Many other unfair situations can be cited especially in connection with our agricultural products. Candy is a widely consumed item and is made entirely from agricultural products. We permit candy to come in from Switzerland, France, Germany, or England under a tariff of 14 percent. American made candy shipped to many of these nations faces a tariff of 30 percent. The farmers want to trade with the Common Market countries. We are the world's most efficient and lowest cost producers of agricultural products. Under the variable duties now in effect within the Common Market countries, the products of American farmers face a tariff in the Common Markets countries, as of August 1, 1962, at least six times as high as corresponding tariffs on identical items imported from the Common Market into the United States. In addition to the inequality of tariffs facing the United States, we meet continually countless instances of the imposition of nontariff barriers mentioned above.

It is my belief trade negotiations can be carried on that would be mutually advantageous to the United States and to other countries. It must be a two-way street. The only safeguards remaining in the bill before us are ineffective. Discretionary power is given to the President, without limitation, to raise tariffs, to any level or to impose any other trade restriction. These provisions are not guidelines for negotiation. They will be applied, if at all, after the fact. They will subject the President to innumerable requests and pressures from deserving industries at home and will create ill will for the United States within foreign countries if they are ever applied.

The bill before us eliminates the peril point procedure. No longer will the Tariff Commission, after it has made its studies, advise the President before the negotiations at what point injury might occur. This measure abandons the policy of economically sound increased trade and proceeds upon an admission that negotiations will be consummated to the injury of segments of our economy. The escape clause is shorn of effectiveness in existing law.

The powers delegated to the President are vastly greater than the powers heretofore delegated. He may, through negotiation, lower all tariffs from their present level, a level lower than almost any other country, by an average of 50 percent. An addional list of commodities is subject to being lowered more than 50 percent—in fact down to zero. The President is specifically authorized to negotiate away all tariffs now less than a 5-percent ad valorem equivalent. In these two latter categories of additional power will rest many of our agricultural products.

Prior acts had, as their goal, an expansion of trade and an increase of jobs. This measure substitutes a Government managed economy for the United States and for foreign countries with shocking disregard for business and employment results. The bill sets up a superunemployment compensation system in addition to individual programs of our 50 States. It is another major step toward federalizing our unemployment systems. The bill permits workers or management to seek a finding that they are injured by imports. A worker so found to be unemployed by the reason of imports will be entitled to unemployment compensation for 52 weeks at approximately 65 percent of his salary. This will amount to almost twice the average

rate of unemployment compensation paid by our States. He will receive these benefits for 52 weeks, a longer period than is provided by most State unemployment compensation systems.

If this Federal unemployment compensation system becomes the law it will bring about many inequalities and many instances of unfairness. A person whose unemployment is caused by the executive granting concessions to destroy his job will draw a higher rate of unemployment compensation, for a longer period, than his neighbor who is secondarily unemployed because his employment was based upon goods or services provided to the business which closed because of imports. Attention is called to the testimony in the hearings of longtime, well-qualified administrators of State unemployment compensation systems who testified against this provision of the bill.

This measure is defective in its unprecedented and far-reaching delegation of power. It is lacking in that it fails to provide guidelines before agreements are entered into with foreign nations to protect the United States from arbitrary barriers or to protect the U.S. domestic market from excessive and uneconomic imports. The measure should be materially revised or delayed until January when such revision could be made.

CARL T. CURTIS,
U.S. Senator.

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